Appendix F

P-SWTR-10
1/18/90

DIRECT TESTIMONY

OF

JOSEPH MAURIELLO

*Prepared IMO SOLID WASTE TRANSFER AND RECYCLING, INC.

OAL Docket No. PUC 03173-88

August 1989

JOSEPH MAURIELLO

Q. CAN YOU TELL US YOUR NAME AND CURRENT ADDRESS?

A. My name is Joseph A. Mauriello. I reside at 42 Crest Drive, South Orange, New Jersey.

Q. CAN YOU TELL US, MR. MAURIELLO, YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND?

A. I have provided a vitae which is attached to this testimony and which I incorporate by reference.

Q. ARE YOUR FAMILIAR WITH THE COMPANY KNOWN AS SWT&R?

A. Yes. I have been involved with that company since its formation and involved with Mark Mauriello with the development of the Essex County Transfer Station project since May of 1986.

Q. CAN YOU TELL US WHAT YOUR ROLE WAS IN DEVELOPING THE ESSEX COUNTY TRANSFER STATION PROJECT?

A. My role was to assist Mark Mauriello in the development of financial data such as pro formas, price

projections and the like and in the development of negotiating positions with respect to various services that had to be purchased by SWT&R such as trucking, landfilling, and lease arrangements should that become necessary.

Q. DID YOU HAVE ANY RESPONSIBILITY IN CONNECTION WITH OBTAINING THE CAPITAL THE COMPANY NEEDED TO COMPLETE THE PROJECT?

A. Yes. One of my responsibilities was to obtain the necessary capital.

Q. CAN YOU TELL US, WITH RESPECT TO OBTAING CAPITAL, HOW YOU WENT ABOUT LOCATING CAPITAL FOR THE COMPANY?

A. Yes. I did not approach any conventional lending institutions since the structure of the transaction which was then being developed did not provide for collateral which I knew would be required by any conventional lender. Rather, financing was sought through private sources (such as clients of my accounting practice, friends and relatives) who ultimately, by the end of June 1987, had provided the company with commitments of funds in the approximate amount of $2,000,000. All of these funds to be provided on a debt basis to me and by me, in turn, to the company. Ultimately, those funds were provided to the company for repayment as follows:

> $1,350,000 payable on or before September 1, 1989, $1,350,000 payable approximately December 31, 1990, and the balance of $516,000 on or before the end of the project.

This repayment amount obviously accounts for a greater amount than the initial $2, 000, 000. The reason is that I loaned SWT&R an additional $1,350,000 in December of 1987. The interest rates agreed to for this borrowings were as follows:

On the $1,350,00 due September 1989, the rate of interest was 16 per cent until April 1, 1988 and thereafter 13 per cent until paid,

On the $1,350,000 due approximately December 31, 1990, the rate of interest was 16 per cent until April 1, 1988 and thereafter changing to prime plus 4 per cent, and on the remaining balance of $516,000 the interest rate was 13 per cent until repayment. The weighted average interest on all loans after April 1, 1988 approximated 13.5 percent.

Q. DID SWT&R OBTAIN FUNDS FROM ANY OTHER SOURCES TO SUPPORT THE PROJECT?

A. Yes. SWT&R did obtain certain equity capital through the sale of stock to Mark Mauriello, myself, Harold Martin, and Patsy Giordano, Jr. totalling $100,000. In addition, the company borrowed funds from Mark Mauriello in the amount of $170,000 at the rate of 13 per cent, which borrowing is repayable on or before the end of the project.

Q. HAVE FINANCIAL REPORTS BEEN PREPARED FOR SWT&R UNDER YOUR SUPERVISION FOR CALENDAR 1987 AND CALENDAR 1988?

A. Yes.

Q. WERE THOSE REPORTS PREPARED IN ACCORDANCE WITH THE BOARD OF PUBLIC UTILITY REQUIREMENTS ON A REPORT KNOWN AS AN ANNUAL REPORT?

A. Yes.

Q. WOULD YOU LOOK AT THE DOCUMENTS WHICH I HAVE MARKED P-15 AND P-16 AND TELL US IF YOU CAN IDENTIFY THOSE DOCUMENTS?

A. Yes. These are the Annual Reports prepared for the company by me for Calendar 1987 and 1988. In addition the documents include certain revisions recently made to the 1987 Annual Report.

Q. AS ACCOUNTANT FOR THE COMPANY, HAVE YOU PREPARED A STATEMENT REFLECTING THE SOURCES AND USES OF FUNDS FROM THE INCEPTION OF THE ESSEX COUNTY PROJECT?

A. Yes. I have prepared such a statement.

Q. WOULD YOU LOOK AT EXHIBIT P-17 AND TELL ME IF THAT IS THE SOURCE AND USE OF FUNDS STATEMENT PREPARED BY YOU?

A. Yes.

Q. CAN YOU TELL ME WHAT THAT STATEMENT DEPICTS IN TERMS OF THE FINANCIAL CIRCUMSTANCES OF THE COMPANY?

A. This statement reflects the use of all funds which came into the hands of the company and demonstrates clearly, I believe, that the price received by the company under this contract was barely adequate for the company to be in a position to meet its debts on a current basis.

Q. MR. MAURIELLO, HAVE YOU CALCULATED THE NUMBER OF MONTHS WHICH THE ESSEX COUNTY PROJECT MUST CONTINUE AT CURRENT LEVELS OF FLOW AND CURRENT PRICES IN ORDER FOR THE COMPANY TO BE IN A POSITION TO REPAY ALL OF ITS DEBT?

A. At current levels and prices, the Company is having extreme difficulty in repaying its debt and paying back stockholders, despite renegotiation of its contract with the processor, Environmental Waste Processing Inc.

As of December 31, 1998, there is a deficiency in assets to pay debt, if we recognize that the fixed assets of the Company will have no realizable value, since they consist largely of leasehold imnprovements, and to a much smaller extent investments in scales, computers, and office furniture and fixtures. The following tabulation shows the status as at December 31, 1988:

Realizable assets as at December 31, 1988:

Cash in bank	$ 513,616
Accounts receivable	1,131,049
Prepaid taxes	6,000
Deposits	967,469
Total realizable assets at December 31, 1989	$2,618,134

Liabilities payable as at December 31, 1988:

Accounts payable	$2,383,391
Accrued liabilities	580,568
Notes and loans payable	1,826,744
Total	$4,790,703
Stockholder capital stock investment to be recovered (without any return on investment)	100,000
Total	4,890,703
Deficiency in assets to pay debt and stockholder investment, to be defrayed from future operations	$2,272,569

The results of future operations are problematical, since the .daily tonnage through July, 1989 is below that of 1987 and 1998. Also, the Company has incurred Pennsylvania surtaxes that are not being

recovered in its rates and has experienced an increase in transportation charges.

The tabulation shows that the Company must make a profit before depreciation of $2,272,569 by September 1, 1990, the date as of which the Essex County incinerator is expected to be in operation. The required per-month predepreciation income amount for the 20 months from January 1, 1989 through September 1, 1990 is $113,628, or $1,363,536 for a 12-month period.

Q. DID THERE COME A TIME WHEN IT BECAME NECESSARY TO REVISE THE AGREEMENT BETWEEN SWT&R AND THE COMPANY ORIGINALLY KNOWN AS 442 WASTE MANAGEMENT, INC.?

A. Yes. That became necessary since the original contract price established with that firm assumed that the company would be processing 2,600 tons of waste per day and that has turned out to be far from the case. We have undertaken extensive negotiations with the owners of that company and with its accountant, Rueben Hunter, to attempt to arrive at a figure which would appropriately reflect the division of responsibility as between SWT&R and 442, and at the same time leave each of the companies with sufficient funds to meet their current obligations. I must repeat that this circumstance is in large part created by the serious deficiencies in the flow of waste to this facility which was designed and constructed to be a facility handling 2,600 tons per ton when in fact it is handling less than 1,200 tons per day.

The results of that re-negotiation, which are subject to Board of Director approval, have been to reduce the processing fee from $14.78 per ton to $11.16 per ton effective August 1, 1987 through July 31, 1989. In addition, the current understanding between the two companies is that there will be further negotiations to

establish the price to be in effect after July of 1989. I cannot say at this time whether the result of further negotiation will be a reduction or increase in the price paid by SWT&R for processing waste.

JOSEPH A. MAURIELLO

CONDENSED VITA

Joseph A. Mauriello is a certified public accountant and is senior partner of the public accounting firm, Mauriello, Franklin & Company, 358 South Orange Avenue, South Orange, New Jersey 07079. He has BS, MBA, and PED degrees from New York University in the fields of economics, finance, and accounting. He was Professor of Accounting at New York University (full professor for 24 years) and more recently at Seton Hall University before he retired as Professor Exeritus. He is a financial and accounting consultant to industry.

SOLID WASTE TRANSFER AND RECYCLING, INC.
STATEMENT OF CASH FLOWS FOR PERIOD AUGUST 1, 1987 TO DECEMBER 31, 1998.

Cash Flows from Operating Activities:		
Net loss from operations		$ (246,741)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation and amortization	$ 1,279,229	
Changes in current assets and current liabilities:		
Increase in accounts receivable	(1,131,049)	
Increase in prepaid taxes	(6,000)	
Increase in accounts payable	2,383,391	
Increase in accrued rent, taxes and payroll	580,568	
Total adjustments		3,106,139
Net cash provided by operating activities		$ 2,859,398
Cash Flows from Investing Activities:		
Landfill-deposits	$ 700,000	
Landfill claims deposits	267,319	
Utility deposit	150	
Capital expenditures for tangible fixed assets	3,096,146	
Organization costs	208,911	
Net cash used in investing activities		(4,272,526)
Cash Flows from financing activities:		
Net borrowings on notes and loans	$ 3,273,466	
Principal repayments on borrowings	(1,446,772)	
Proceeds from issuance of common stock	100,000	
Net cash provided by financing activities		1,926,744
Net increase in cash		$ 513,616

APPENDIX G

Appendix G

STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND ENERGY
Office of the Commissioner
CN 402
Trenton, NJ 08652-0402

IN THE MATTER OF THE PETITION OF THE UNION COUNTY UTILITIES AUTHORITY FOR APPROVAL OF AN AMENDED AND RESTATED AGREEMENT FOR THE ACQUISITION OF AN UNDIVIDED INTEREST IN REAL PROPERTY, CONSISTING OF THE ACQUISITION OF CERTAIN EASEMENT AND LANDFILL RIGHTS	)	*ORDER* DOCKET NO. CT05930003

* * * * * * * *

Obligations of UCUA

As partial payment for the acquisition of the Easement, [Union County Utilities Authority ("UCUA")] will pay a "Base Purchase Price" of $2 million which will be deposited into the escrow fund. In addition, UCUA will pay a "Deferred Purchase Payment" for each calendar month during the term of the Empire Agreement. The Deferred Purchase Payment will equal the unit charge in place for the current month multiplied by the tonnage for the current month, plus, if applicable, uncontrollable circumstance costs, as defined by Section 10.2 of the Empire Agreement, for the current month. The monthly unit charge during 1994 will be $37 per ton. Beginning in 1995, the unit charge shall escalate yearly in accordance with the Consumer Price Index (Urban Area, Philadelphia), provided that the yearly increase shall not exceed 4%.

* * * * * * * *

The Empire Agreement, presented to the Department as a contract for a term of twenty years, clearly conflicts with the Department's well-established aversion to approval of long-term out-of-state disposal contracts. Approval of the Empire Agreement, as presented, could have subject to the Department to the claims that it was acting in violation of its own stated goals, in an *ultra vires* manner. The solution fashioned by the Department eliminates this concern. The two year approval granted by the Department does not contravene long-term planning goals, while providing a clearly delineated short-term solution. The Department notes that the conditions contained in this Order are similar to the conditions imposed on the agreement between the Passaic County Utilities Authority and Empire earlier this year in Docket No. CT03030001.

Accordingly, the Empire Agreement is *APPROVED AS MODIFIED* herein.

DATED:
January 14, 1994

s/s Jeanne M. Fox
Jeanne M. Fox, Acting Commissioner
Department of Environmental
Protection and Energy